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SUBJECT: MECHANISMS FOR THE FALL OF GOVERNMENT

REFS: A) BELGRADE 146 B) BELGRADE 143

Summary

¶1. (SBU) The anticipated fall of the government of Prime Minister Vojislav Kostunica's and rise of a successor could follow different trajectories. Possible scenarios include the resignation of PM Kostunica, a parliamentary vote of no confidence in the government, and a government recommendation to the President to dissolve parliament and call new elections. In all cases, a caretaker government would oversee the basic functions of government until election of a new prime minister and installation of the PM's cabinet. None of these have been tested under Serbia's new Constitution. In the past, Serbia's political leaders have shown a willingness to bend the Constitution for the sake of political expediency. End Summary.

Scenario I: Prime Minister Resigns

¶2. (U) The current government would fall if the prime minister resigns from Office. Under this scenario which would set a new precedent for Serbia, Kostunica would simultaneously submit his resignation to the Speaker of Parliament and inform President Tadic. According to the principal drafter of the Constitution and University of Belgrade Law Professor, Dragor Hiber, Parliament would have 30 days to confirm a new government. During this time, the President will propose a candidate for Prime Minister, based upon the opinions of parties represented in Parliament. The candidate for Prime Minister will then present his government program and proposed ministers to Parliament for consideration. If Parliament fails to establish a new government, the President must dissolve Parliament and schedule elections.

Scenario II: Vote of No Confidence

¶3. (U) The Constitution empowers Parliament, with the support of at least 60 deputies, to entertain a vote of no confidence in the government. A request for a vote submitted, Parliament must discuss the proposal for the vote of no confidence at its next session, and no later than five days from submission of the request. Parliament must discuss and vote on the proposal. A simple majority passes the proposal and obligates the President to initiate proceedings for the formation of a new government. As in the case of the PM's resignation, if the Parliament fails to confirm a new government within 30 days from voting no confidence, the President must dissolve the Parliament and schedule parliamentary elections. Elections must conclude no later than 60 days from the dissolution of Parliament.

Scenario III: Government Recommendation to Dissolve Parliament

¶4. (U) Upon the proposal of the Government, the President may

dissolve Parliament. With the dissolution of Parliament, the President simultaneously schedules parliamentary elections. The dissolved Parliament performs only urgent functions "stipulated by the Law."

Scheduling Elections and Convening New Parliament

¶5. (U) The Constitution stipulates that elections must be scheduled to end no later than 60 days from the day they are called. Parliament must convene, within 30 days of the certification of election results, and begin the process of forming a new government. The installed parliament has 90 days to confirm a government.

A Caretaker Government

¶6. (U) A caretaker cabinet governs until Parliament forms a new government. According to Hiber, the law anticipates that the ministers empowered at the time the government falls or upon the dissolution of the Parliament would continue to serve in a caretaker capacity. An advisor to the prime minister told poloff, however, that the ministers could change seats. In any event, they would limit operations to "basic functions" of government. The government could not propose substantial laws or enter into international agreements, according to Hiber. A caretaker cabinet governed Serbia from December 2006, through the January 2007 parliamentary elections, until the formation of the current coalition in May 2007.

Caretaker Parliament: Legal Status Uncertain

¶7. (SBU) MP Meho Omerovic (DS) told poloff that the Law on the National Assembly (Parliament) defines the functions of Parliament

BELGRADE 00000148 002 OF 002

during the interim between dissolution and installation of newly elected deputies. The law only exists in draft, however, pending adoption by Parliament. The provision requiring a dissolved Parliament to perform urgent tasks did not exist under the old Constitution, and there is no precedent for defining these exigencies. The draft law, however, defines urgent tasks to include: resolving mandate and immunity issues of MPs, fulfillment of international cooperation, resolving administrative issues related to MPs and other elected and appointed officials. The draft law stipulates that the Speaker, Parliament General Secretary, and other working bodies would continue to perform other (unspecified) work of the Parliament. A parliamentary working group submitted the draft law, at the request of the Speaker of Parliament. It is not an authoritative or necessarily a final draft.

Calling for Early Elections: A Likely Scenario

¶8. (SBU) Hiber speculated that PM Kostunica and his government will convene next week to vote on whether to call new elections. Hiber said that Kostunica was "trying day and night" behind the scenes to form a government with the Radicals, but that he has so far been unsuccessful. He expected that Kostunica would fail in this effort and, in a meeting next week, his cabinet would vote to recommend to the President to dissolve Parliament. (Government cannot go more than a week without convening, he noted, or breach its Constitutional obligations, Hiber said. We suspect that the PM would argue that reported "telephone meetings" satisfy this obligation.)

Comment

¶9. (SBU) The government is stalled. The Constitution is untested. The politicians themselves are puzzled. Our best guess is that this unsustainable situation will eventually lead to new elections. End comment.

